IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

C.W.P. No. 9856 of 2006
Date of Decision: July 10,2006

Antu and another ..... Petitioners

Versus

The Collector Yamuna Nagar and others ..... Respondents

Coram: Hon'ble Mr. Justice Ashutosh Mohunta
Hon'ble Mr. Justice P.S. Patwalia

Present: Mr. Mahavir Sandhu, Advocate
for the petitioners.

Mr. Ashish Kapoor, Addl. A.G. Haryana with
Mr. S.K. Bishnoi, DAG, Haryana.

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ASHUTOSH MOHUNTA, J.

This judgment shall dispose of C.W.P. Nos. 9856 to 9872 of 2006 as all these writ petitions arise out of the same orders of even date passed by the Assistant Collector Ist Grade-cum-District Development & Panchayat Officer, Yamuna Nagar and the Collector, Yamuna Nagar. For the sake of convenience, the facts are being extracted from C.W.P. No. 9856 of 2006.

The challenge in the writ petition is to the order (Annexure P6) passed by the Assistant Collector Ist Grade-cum-District Development and Panchayat Officer, Yamuna Nagar, dated 27.3.2006 and the order (Annexure P7) passed by the Collector, Yamuna Nagar, dated 13.6.2006.

The Gram Panchayat Bihta Block Bilaspur, District Yamuna Nagar, filed an application under Section 7(2) of the Punjab Village Common Lands (Regulation) Act 1961 (for short `the Act') for ejectment of the present petitioners being in illegal occupation of the Panchayat land. The Gram Panchayat had prayed that penalty be also imposed on the petitioners (respondents in the application). The Assistant Collector Ist Grade, Yamuna Nagar, found that the petitioners were in illegal possession of the suit land and, accordingly, vide his order (Annexure P-6) dated 27.3.2006 ordered the ejectment of the petitioners from the land in dispute with immediate effect. A penalty at the rate of Rs.10,000/- per hectare per annum was also imposed. The petitioners

challenged the order of the Assistant Collector Ist Grade before the Collector, Yamuna Nagar, who vide his order Annexure P-7 dismissed the appeal as the petitioners had not deposited the amount of penalty.

Mr. Mahavir Sandhu, counsel for the petitioners, has argued that the period during which the petitioners are alleged to be in illegal occupation of the Panchayat land has not been specified by the Assistant Collector. It has further been argued that no reasons have been given by the Assistant Collector Ist Grade as to why the maximum penalty of Rs.10,000/- per hectare per annum has been imposed. In support of his contention, learned counsel has relied upon the decision of a Division Bench in C.W.P. No. 10872 of 2001 titled as ***Chattar Singh and another v. The State of Haryana and others***.

We had directed the counsel for the State to go through the impugned orders and to assist us.

It has been argued by the counsel for the State that the orders of eviction have rightly been passed and as the petitioners were in illegal occupation of the Panchayat land, therefore, they are liable to pay the penalty imposed on them.

The limited challenge to the impugned orders is with regard to imposition of penalty.

A perusal of the impugned orders shows that the Assistant Collector Ist Grade, Yamuna Nagar, has not specified the period during which the petitioners had remained in illegal occupation of the suit land. The said authority has also not given any reason as to why the maximum penalty is being imposed on the petitioners.

The petitioners ought to have been given a reasonable opportunity to explain as to why a lesser penalty should not be imposed. As this has not been done, therefore, we set aside the impugned order (Annexures P-6) to the extent that the Assistant Collector has imposed a maximum penalty of Rs.10,000/- and remit the case back to the Assistant Collector Ist Grade, Yamuna Nagar, with a direction that he should determine the quantum of penalty to be levied after giving reasons for the same and also should clearly specify as to for which period the petitioners have remained in illegal occupation of the Panchayat land and are therefore liable to pay the penalty and pass appropriate orders in accordance with law.

As a result of the setting aside of the order of the Assistant Collector the order passed in appeal by the Collector (Annexure P-7) is also set aside. The Assistant Collector shall decide the case within a period of two months from the date of receipt of a certified copy of this order and till the matter is not decided by the Assistant Collector Ist Grade, dispossession of the petitioners shall remain stayed.

Parties through their counsel are directed to appear before the Assistant Collector, Yamuna Nagar, on 25.7.2006.

The writ petition stands disposed of in the above terms.

(ASHUTOSH MOHUNTA)
JUDGE

(P.S. PATWALIA)
JUDGE

10.7.2006
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